

U.S.D.I. BUREAU OF LAND MANAGEMENT
Folsom Field Office
FINDING OF NO SIGNIFICANT IMPACT/DECISION RECORD

NAME of PROJECT: Public Land Lease to the Operating Engineers Local Union No. 3
Joint Apprenticeship Training Committee for a Heavy Equipment Operators Training
Center in the Yuba Goldfields (Environmental Assessment CA-180-06-43)

A. FINDING OF NO SIGNIFICANT IMPACT

Environmental impacts associated with the proposed action and alternatives have been assessed by an interdisciplinary team and described in Environmental Assessment (EA) CA-180-06-43. The context of the EA analysis was determined to be at a local and regional scale in the areas of Yuba and Sutter Counties. The effects of the action are not applicable on a national scale since no nationally significant values are involved.

In making this Finding of No Significant Impact (FONSI), the following criteria have been considered, in accordance with the Council on Environmental Quality (CEQ), 40 C.F.R. 1508.27:

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

Beneficial Effects: The center would provide much needed training for apprentice heavy equipment operators vital to aggregate producing companies. It would provide employment opportunities for well-paid jobs in the construction aggregate industry. This would result in beneficial impacts to the local economy. The Training Center would facilitate the reclamation of public lands disturbed by past mining activities within the lease area. Proposed operations include repairs to and reconstruction of two segments of Hammonton Road and of other access roads within the lease area. (EA, pp.2-3)

Adverse Effects: Training Center activities would cause a localized increase in noise levels and dust from vehicular traffic, excavation operations and road construction work. Aggregate processing activities (gravel screening and crushing) would also generate increased levels of dust and noise. With the implementation of mitigating measures defined in the Environmental Assessment, however, there would be no significant adverse impacts to the environment or to the nearest residents of private lands in the vicinity of the lease area. (EA, pp.28-29 and Attachment C)

2. The degree to which the proposed action affects public health and safety.

The proposed action would not have a significant effect on public health and safety. With the implementation of special lease stipulations there would be no residual impacts to water quality. All air pollutants resulting from the proposed action are expected to be well below applicable state or federal standards. Training Center facilities and

equipment will be secured behind fences to minimize the attractive nuisance and related hazards to the public. (EA, pp.5, 36, 40 and Figure 5)

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The proposed lease area is not in proximity to park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas. There would be no effect on wetlands or wetland-dependant species. This is because the wetlands in the Goldfields are isolated, artificially created features that do not have surface connections to other water bodies. They are not hydrologically or biologically functioning natural floodplain wetlands. Anadromous fish such as Chinook salmon and steelhead trout swim in the Yuba River about a half of a mile north of the lease area, but they cannot enter these isolated canals and ponds. Flood plain restoration resulting from Training Center activities would alter these features and would reclaim disturbed terrain with seasonally water-filled depressions. At the northern boundary of the lease area is a perennial windrow canal which will serve as a water source for use by the Training Center. This canal is at the base of an historic landscape consisting of tall hedgerows of bucket-line dredger tailings. The lease area excludes this historic landscape and Training Center operations there would be prohibited. (EA, pp.21, 28-29, 33, Figure 5)

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

It is not likely that the impacts to the quality of the human environment that would result from the proposed lease to the JATC would be highly controversial. Such impacts would not be significant. This is because the project is located in a relatively remote area that is already highly disturbed by past aggregate mining activities.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risk.

Effects are well understood and do not involve any unique or unknown risks. (EA, pp.30-44)

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Lease activities will include apprenticeship training in the use and operation of heavy equipment. Although no removal of aggregate materials from the lease area would be allowed, the proposed lease will also authorize the excavation, screening and crushing of gravel to be used in surfacing Training Center parking areas and access roads, and the reconstruction of two segments of Hammonton Road located within the lease area. This work would be conducted by Training Center trainees and an estimated 5,000 cubic yards (7,500 tons) of aggregate would be mined and used subject to an approved

reclamation plan (or plan waiver) under the California Surface Mining and Reclamation Act. (EA, pp.3, 4, 43-44)

The scope of this lease action is limited and under a specified time period. It does not establish a precedent nor does it represent a decision in principle about any future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

Cumulative impacts of the proposed action on the environment would not be significant or related to any other action with significant cumulative impacts. The project site has already been highly disturbed by many decades of mining activities. Dredger tailings in the Goldfields and construction aggregate within adjacent flood plains are presently being mined by several companies. The mine plans involve 9,000 permitted acres and over 8 million tons produced annually. The proposed Training Center would involve the mining, processing and use of about 7,500 tons of gravel within 57 acres of land which have already been disturbed by past mining operations. When added to the emissions generated by existing sand and gravel operations in the Goldfields, the anticipated increase in diesel exhaust, fugitive dust and noise emissions resulting from proposed Training Center operations would not result in a significant cumulative impact. Impacts to cultural, biological and water resources in the 57-acre lease area would not result in significant cumulative impacts when added to impacts to these resources resulting from sand and gravel operations in the vicinity of the subject lands. Additional Training Center projects on public lands outside of the lease area may be proposed, but separate environmental analyses would be conducted before such operations are authorized and anticipated effects such as increased noise, dust and traffic are expected to be minor. There would be a minor cumulative impact. (EA, pp.42-44)

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

Although historic extraction of aggregate materials has occurred throughout the project area, no significant scientific, cultural or historical resources would be affected by the proposed action. (EA, p.30)

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

Wildlife and botanical surveys of the proposed lease area were conducted in 2004 and 2005. No listed or special status plant species were found. No critical habitat for listed animal species was observed within the lease area. Bald Eagles have been observed

by BLM staff in previous years. Disturbance to Bald Eagles perching nearby may occur. However, because the project area is fairly small, and there are abundant perches in nearby surrounding lands, the proposed action would have no effect on the Bald Eagle. No other special status animal species were observed during the surveys. Mitigating measures have been developed to minimize adverse impacts to wildlife. Training Center operations such as removing tailings adjacent to riparian zones and re-grading the margins of ponds and canals to a more natural state would be designed to restore much of the habitat disturbed by past mining operations. The proposed action would have no affect on endangered or threatened species or their habitat. (EA, p.30-32)

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action does not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Based on the findings discussed herein, I conclude that the proposed action is not a major Federal action and will result in no significant impacts to the environment. Preparation of an environmental impact statement to further analyze possible impacts is not required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969.

B. DECISION RECORD

1. DECISION

It is my decision to issue a lease to the Operating Engineers Local Union No. 3 Joint Apprenticeship Training Committee (JATC), pursuant to the authority of Section 302 of the Federal Land Policy and Management Act of October 21, 1976, as amended, 43 U.S.C. 1732. The lease will be authorized for a 20-year term, and will provide for the construction and operation of a training facility for apprentice heavy equipment operators. The lease will encompass approximately 57 acres of public land in Yuba County, California, described as follows (EA, pp.3-6, Figure 5):

Township 16 North, Range 5 East, Mount Diablo Meridian, Section 27:

S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ and lands within those portions of Lots 4, 5, and 12 equivalent to the SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, excluding lands north of the dredger tailings windrow canal that flows through lots 4, 12 and the S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The lease authorizes the construction and development of training facilities and the operational activities as outlined in the proposal filed by JATC on September 15, 2004, as modified by this decision. The Notice of Realty Action for this proposal was published in the Federal Register on April 13, 2006. A letter from the JATC dated June 27, 2006 was accepted as the filing of the formal application. The lease will be issued subject to the applicable regulations under 43 CFR 2920, the mitigating measures described in EA

CA-180-06-43, and to the terms and conditions listed in Army Corps of Engineers' letter to BLM dated June 7, 2006. These mitigating measures, terms and conditions are listed on the attached Exhibit A.

JATC will be required to reimburse the United States for the processing and monitoring costs associated with the lease in accordance with 43 CFR 2920.6, and to submit annual rental payments, based on current market value as determined through appraisal, pursuant to 43 CFR 2920.8. JATC will also be required to provide and maintain a bond in the amount of \$200,000 throughout the term of the lease, to ensure compliance with the lease terms and reclamation requirements.

2. BACKGROUND

The Yuba Goldfields consists of approximately 9,700 acres of land about 4 to 13 miles east-northeast of Marysville, California. These lands consist of tall hedgerows of tailings and dredger ponds left by bucket-line dredging operations during the early 1900's. The area has been mined by huge bucket line dredges for decades. It is one of the most disturbed landscapes in California. Thousands of acres of land have been turned, literally, upside down. (EA, p.42-43)

The lease area includes 57 acres of public lands. The site has well drained soils which will provide the JATC with a year-round training location. Their present facility at Rancho Murieta is located on soils less desirable for training during the wet winter season.

Public ownership of these lands dates back to the 1848 Treaty of Guadalupe. These lands have never left public ownership.

The lease area is within lands withdrawn in 1899 from sale and entry pursuant to the Caminetti Act of 1893. Under the Caminetti Act, the California Debris Commission (CDC) was created to regulate hydraulic mining and to prevent the discharge of mining debris into California waterways. To accomplish this, the CDC was granted the right to use public lands withdrawn under the Act or "any rock, stone, timber, trees, brush or material thereon or therein" for any of the purposes of that Act. In order to manage tailings deposited into the Yuba River channel by hydraulic mines upstream of the Goldfields, the CDC tacitly approved the dredging operations and worked with Yuba Consolidated Dredging Company to develop and maintain a new river channel north of the historic river bed. In 1986 the California Debris Commission was abolished and its duties transferred to the Army Corps of Engineers. (EA, p.2)

3. ALTERNATIVES CONSIDERED (EA, p.7)

a) 40-year lease

The JATC requested a 40-year lease for a training site within the Yuba Goldfields. This alternative has not been adopted; rather, the decision is to grant a 20-year lease. The shorter term better matches BLM's planning frequency on public lands in California. For example, the Folsom Field Office's Sierra Planning Area MFP, last amended in the late

1980s, is currently being revised, and the new Sierra Resource Management Plan is expected to remain in effect for at least two decades. This timeframe is consistent with BLM-California's statewide planning experience, with plans typically requiring revision or major amendments within 20 years. In addition, a 20-year term would provide more than enough time to amortize JATC's capital investment to establish the training center. Information provided by the JATC indicates that it would take 7 to 8 years to amortize its estimated \$7.3 million investment.

b) No Action

Under the No Action alternative, the proposed Training Center would not be constructed. The No Action alternative is the only other feasible alternative to the proposed action and has been evaluated consistent with National Environmental Policy Act (NEPA) requirements to provide a comparison with the proposal.

c) Alternatives considered but dismissed from detailed analysis

One alternative considered was to grant a renewable 3-year permit rather than a longer-term lease. This alternative was considered but dismissed from detailed analysis in the EA because a permit is not appropriate for the type of facility needed (two permanent structures) and the JATC has indicated that they would not be able to amortize their investment over a 3-year period. Such a permit would not provide JATC with sufficient certainty that would warrant the capital investment required. A short-term permit would not meet the purpose and need for the proposed action.

Another alternative considered but dismissed was suggested by Western Aggregates (Western), which has substantial land holdings in the Yuba Goldfields. Western offered to lease land it owns in the Goldfields about a half-mile east of the proposed lease area. The land would be leased to BLM for use by the JATC because, according to Western, labor laws would prohibit their leasing this land directly to the JATC. This alternative was dismissed from detailed analysis primarily because BLM has no legal authority to permit a regulated use of private lands and because the short term would not meet the purpose and need for the proposed action. Further, significantly less land would be suitable for use by the training center at the alternate location than at the proposed lease area.

No other lease areas on BLM-administered public lands within or outside of the Yuba Goldfields were identified during BLM's scoping process or during the EA public comment period, and none have been identified since. The proposed site was selected by the JATC because it meets its technical requirements for a training center. No other site on public lands within the Goldfields would be better suited for the Training Center requirements than the proposed lease area, particularly the availability of electrical power, water and training opportunities. This site was also chosen for the potentially significant socio-economic benefits that such a Training Center would bring to the economically depressed Sutter-Yuba county region.

4. MANAGEMENT CONSIDERATIONS

My decision to approve the Training Center lease is based on the following management considerations.

a) The proposed lease is in conformance with the Sierra Planning Area MFP

The proposed lease conforms with the Management Framework Plan Amendment approved July 15, 1988. Lease issuance conforms with the land use plan terms and conditions as required by 43 CFR 1610.5. The lease area is located within Management Unit 13, the Custodial Management Area (EA, p.2). BLM is currently preparing a new Resource Management Plan (RMP) which will replace the MFP in 2007. The proposed lease would not limit the choice of alternatives being considered by the new RMP.

b) The proposed lease is consistent with other agency plans and programs

The Yuba Goldfields have been zoned for mining by Yuba County and the proposed lease will not conflict with the County's General Plan. The Yuba County Board of Supervisors unanimously passed a resolution in support of this Training Center. (EA, p.3)

The subject parcel lies within public lands withdrawn in 1899 from sale and entry pursuant to the Caminetti Act of 1893. The Army Corps of Engineers (ACE) has the right to use the subject lands or "any rock, stone, timber, trees, brush, or material thereon or therein" for any of the purposes of the Caminetti Act. The ACE has confirmed that it does not have plans to conduct any operations on this parcel at this time, and has not identified any conflicts between the proposed lease and its right to use lands withdrawn under the Caminetti Act. However, the ACE has requested that BLM grant the proposed lease subject to terms and conditions (including lease revocation) that ensure that operations by the Training Center shall not conflict with the ACE's right to use the public lands for the purposes of the Caminetti Act. These terms and conditions will be incorporated in the lease. (EA, p. 2)

c) NEPA documentation

The environmental assessment completed for this project indicates it has positive economic benefits and no significant adverse environmental impacts. The application of mitigation measures defined in the environmental assessment and the acceptance of supplemental restrictions made at the request of the nearest private landowner and accepted by the BLM, would reduce adverse consequences to levels far below any threshold of significance.

Analysis shows the environmental impacts of the proposal to be minimal. Extensive resource inventories were conducted to reach this conclusion. The 36 acres to be used for heavy equipment operation have been previously mined. The mining was conducted with huge bucket line dredges that literally turned the land upside down and left behind one of the most disturbed landscapes in California. Training will merely move material

back and forth within this previously disturbed landscape. The acreage planned for classrooms and equipment storage and maintenance was previously used, in part, as an electrical substation.

A number of historical sites have been documented in the proposed lease area. None were found eligible for the National Register of Historic Places.

Biological resources present include no listed species of plants or animals that would be adversely impacted by the center. Species other than those listed under the Endangered Species Act would be subject to only minor impacts. These impacts are further moderated through mitigation measures to levels of insignificance.

Wetlands were identified. The wetlands are very small ranging from 0.231 acres to 0.005 of an acre. Mitigation measures have been developed to reduce the impacts to wetlands well below any level of significance with no residual impacts.

Air Quality analysis indicates all pollutants are expected to be de minimus and well below applicable state and federal standards.

Water quality impacts could occur from construction related activities. The development and implementation of a Storm-water Pollution Prevention Plan will minimize these impacts. Contaminants could be introduced into surface waters from small spills of fuel or lubricants associated with fueling and maintaining heavy equipment. The application of the requirements of a Spill Prevention Control and Countermeasures Plan will minimize the spill of any contaminants and any potential impacts.

A noise survey was conducted. The key receptor of any noise impact would be the occupied residence on private property 1000 feet from the Training Center. The balance of the surrounding property is unoccupied within $\frac{3}{4}$ of a mile. The project area is located a few miles from the approach to the runway at Beale Air Force Base so jet aircraft (T-38's, U-2's and KC-135's) fly over the general area many times a day.

The noise survey at the training site found an average sound level of 42 decibels. High noise levels ranged from 41 to 57 decibels. The background level was 38 decibels. By comparison, a typical suburban daytime location would be roughly 10 decibels higher in all categories. From this, I conclude noise is not a major impact. However, to further reduce noise levels, the rock crusher used by the Training Center must be located in the southwest portion of the lease area northwest of Hammonton Road. At its closest point this would place the crusher about 2,000 feet from the residence.

Dust can be a problem with any heavy earth-moving equipment operation. In this case, the potential for dust problems is considered low due to the coarse nature of the gravel and the minimal presence of fine materials that cause fugitive dust.

Impacts will be further reduced by the application of mitigation measures from which lease stipulations have been written. Three such stipulations will provide additional consideration for the nearest private landowner. They require that rock crushing operations will be restricted to lands in Lot 5 of Section 27 northwest of Hammonton

Road, that best management practices would be applied to reduce dust emissions, and that the repair shop rock crushing and heavy equipment hours of operation would be limited to 7:30 am to 4:00 pm, Monday through Friday.

As compared with past, present and anticipated future actions in the Yuba Goldfields, the net cumulative environmental effects from Training Center activities on key resources (cultural, biological, water and air) in the proposed lease area would be insignificant. (EA, p.44)

(d) The proposed lease is in the public interest (EA, pp.2-3)

Yuba County is one of the poorest counties in California. US Census Bureau data show that median household income is only \$30,500 per year compared to a state average of about \$48,000. Per capita income (\$14,500) is less than 2/3 the state average and nearly 21% of the county's population lives below the poverty line compared to 14% for the state as a whole. In addition, the median value of owner-occupied housing units is just \$90,000 compared to state-wide average of \$211,000 according to the latest US Census Bureau data available for 1999 and 2000. Therefore, the economic consequences of the proposal are important.

The center will create eight new jobs, including four instructors, two mechanics, and two support staff. Students and staff will patronize local merchants for groceries, meals, motel rooms, recreation, fuel and other supplies. The classes held at the center will reach 20 students at a time for six weeks. The center will serve hundreds of operators living in the region. These operators will be able to develop, maintain and upgrade their skills which will allow them to increase their wage scales. The measurable economic impact will include increased wages and benefits up to \$40,000 per student (three times the county's per capita income). New jobs, increased pay and additional business activity is an important benefit. This benefit was recognized by the Yuba County Board of Supervisors, which passed two resolutions supporting the Training Center.

5. CONSULTATION AND COORDINATION WITH STATE AND LOCAL GOVERNMENTS

During the lease application process, BLM has been in contact with the City of Marysville officials and the Sutter and Yuba County Boards of Supervisors. These local governments have officially expressed their support for the Training Center proposal. (EA, p.3)

The California State Clearinghouse has distributed the environmental assessment to appropriate state agencies for their review. No State agencies submitted any comments.

6. OPPORTUNITY FOR PUBLIC INVOLVEMENT AND PARTIES CONSULTED

On August 31, 2005, the BLM Folsom Field Office mailed out over 50 copies of the draft Environmental Assessment. The EA was sent to concerned individuals, adjacent land owners, sand and gravel companies, Federal, state and local government agencies,

State Assemblymen and Senators, County Supervisors, Congressman Herger and Senators Boxer and Feinstein.

On October 13, 2005, the BLM held a public meeting in Marysville, California, to present the lease proposal and the findings of the environmental analysis. About 100 individuals attended the meeting. As of the date of this meeting, the EA was made available for review by the general public.

A Notice of Realty Action on this proposal was published April 13, 2006, in the Federal Register (FR Vol. 71, No. 71, p. 19203) and copies of this NORA were published in the Appeal Democrat (Marysville) three consecutive weeks on June 6, 14 and 20, 2006. The public comment period for this proposal ended June 30, 2006.

7. PUBLIC COMMENTS

All comments received from the public have been analyzed and were considered during the evaluation of issues and alternatives for input into the Environmental Analysis.

Individuals, companies, organizations, and government officials have submitted comments on this proposal. A total of 348 written comments were received by BLM.

Comments submitted by individuals included 23 letters, 273 pre-printed post cards and a petition with 43 signatures. The post cards support the lease while the petition opposes the lease. The letters, including one email, indicate support for the lease from 19 individuals and opposition from 4 individuals. Two sand and gravel companies (Teichert and Western Aggregates) provided comments as did four organizations (Dobbins/Oregon House Action Committee, Lake Francis Grange #745, Operating Engineers Local No. 3 JATC [the lease applicant], and Wild Too [a hunting club]). Wild Too and Western Aggregates oppose the proposed lease.

The Yuba County Board of Supervisors, Senator Boxer and the Army Corps of Engineers also provided comments on the proposed action. The County and the Senator have given their full support in favor of the proposed lease to the JATC.

Many of the comments submitted fell outside of the scope of this action. Most of these pertain to Training Center activities proposed outside of the lease area as described in the draft EA. The proposed action as re-defined in the final EA restricts Training Center activities to lands within the lease area. Projects that may be proposed by the JATC involving lands outside of the lease area such as the reconstruction of Hammonton Road, development of recreation areas and repairing Yuba River training walls will require separate authorizations and are not authorized by this decision. No removal of aggregate materials from the lease area will be authorized by this lease. The mining and production of sand and gravel from public lands within and outside of the lease area will require additional authorizations. These actions are not authorized by this lease.

The following comments fall within the scope of this action.

Comments on Socio-economic Impacts

The center would provide excellent training opportunities for equipment operators. It will help meet the demand for jobs locally and throughout California and help young people learn a marketable trade at a decent wage. Apprentice training programs develop talented employees who earn a good living, maintain a trained workforce, are important for the safe production of construction materials and are vital to aggregate producing companies. The Training Center would be an excellent addition to Yuba County's economic development and job creation efforts. The proposed lease would boost the economic potential of the Yuba-Sutter region. The center may reduce crime in the area (more jobs = less gangs).

Response

It is BLM's policy to manage public lands for the benefit of the general public. According to the Environmental Analysis, a lease to the JATC will have beneficial socio-economic impacts to the Yuba-Sutter County region.

Comments on Environmental Issues

The Training Center operations should not destroy the beauty of the area. Impacts to air quality, water quality and important economic, recreational, visual, aquatic and riparian resources must be avoided. BLM must comply with CEQA and SMARA. Levels of noise, dust and diesel emissions generated by Training Center operations must be minimized to reduce impacts to nearby residents. The Training Center would facilitate the reclamation of public lands. This proposal requires an Environmental Impact Statement (EIS). The EA fails to identify potentially significant impacts, the discussion of economic considerations is flawed, it fails to identify the full scope of the project and the impact analysis is insufficient.

Response

The draft EA has been revised to address public comments received, including comments from Western Aggregates, a major land owner in the Goldfields. The proposed action and alternatives have been clarified and minor errors in the analysis have been corrected. A comprehensive analysis of potential adverse environmental impacts resulting from the proposed lease to the JATC is presented in the final EA. Mitigating measures to prevent or minimize these impacts will be incorporated in the lease terms. These measures were developed by Thomas Reid Associates during the preparation of the draft EA and by BLM staff. Many of the latter were derived from the public comments received.

The proposed action is a Federal action under the National Environmental Policy Act and is not governed by CEQA. However, lease operations are required to comply with pertinent Federal, state and local laws and regulations such as California's Surface Mining and Reclamation Act. Reclamation of public lands will result from lease operations, but only within the boundaries of the lease area. The analysis of impacts presented in the EA demonstrates a finding of no significant impact that would require the preparation of an EIS. The proposed action will not result in significant impacts to air and water quality and important economic, recreational, visual, aquatic and riparian resources. (EA, pp.44-45)

Comments on Use of Public Lands and Resources

No removal of aggregate from the public lands should be allowed. The Training Center should not interfere with public access, recreation and other uses of these lands. This proposal encourages competition in the area by union based sand and gravel companies. The Training Center should not cause damage to Hammonton Road. A lease would not be in conformance with an approved land use plan.

Response

Comments on the use of public land resources in the Goldfields varied from restricting uses to encouraging uses. As previously explained, although use of aggregate within the lease area for the purposes of establishing and operating the Training Center will be allowed, no removal of aggregate materials from public lands in or outside of the lease area will be authorized by this lease. Competitive sales of sand and gravel from these lands are outside of the scope of this action.

Restrictions to recreational or other uses of the public lands in the Goldfields would only pertain to the 57 acres within the lease. Most of these activities occur on public lands (about 400 acres) north and east of the lease area (EA, p.44). The Training Center will not cause damage to Hammonton Road. Public lands in the Yuba Goldfields may still be accessed on Hammonton Road through the lands under the proposed lease. They are also accessible from State Highway 20 east of the Goldfields.

The proposed lease is in conformance with the Sierra Planning Area MFP (EA, p.2). BLM is currently preparing a new Resource Management Plan (RMP) which will replace the MFP in 2007. The proposed lease would not limit the choice of alternatives being considered by the new RMP.

Comments on Non-competitive Leasing

A lease should be offered through competitive bidding. None of the factors defined in 43 CFR 2920.5-4(b) that support a non-competitive process are met. The Notice of Realty Action should have been timely published to allow for an expression of competitive interest in this lease. A lease to the Union would be inconsistent with historical governmental decisions and the public interest would not be served by a private Training Center. A lease to Yuba Community College would be more appropriate.

Response

The proposal is to issue a non-competitive lease in accordance with 43 CFR 2920.5-4. BLM has determined that a non-competitive process is supported by these regulations. The JATC has developed a unique concept for the use of these public lands, one that has not been raised or submitted by any other entity in the past. It would be unfair for BLM to allow another party to take advantage of the creative effort invested by JATC during the development of this proposal. Accordingly, this applicant's unique land use concept is not suitable for a competitive bidding process.

No interest has ever been expressed by Yuba Community College in establishing a training center in the Yuba Goldfields.

The proposed action is to lease land to the Joint Apprenticeship Training Committee (not to any union) for the purposes of establishing a heavy equipment operator's training facility. The JATC members include union employees and union-based company representatives. It is BLM's policy to accept and review land use applications from any individual, organization, agency or company.

Comments on Jurisdiction and Property Rights

The land chosen for the Training Center infringes on Western Aggregates' property rights. Title issues in the Goldfields need to be resolved before a lease is issued. Western owns mineral materials in the lease area that would be excavated by JATC. BLM authorization that would remove or materially alter aggregate and rock owned by Western will constitute a taking or other actionable injury. BLM and Western need to reconvene land exchange talks to resolve title issues. BLM lacks jurisdiction over the lands proposed for a lease and lacks authority to lease the lands under the Federal Land Policy and Management Act (FLPMA). The Army Corps of Engineers has sole jurisdiction. The Army Corps of Engineers letter of June 7, 2006 does not cure BLM's lack of jurisdiction. Lease issuance should be deferred until property ownership and jurisdictional issues are resolved.

Response

Western Aggregates claims to own the aggregate resources within the lease area, an estimated 5 million tons of gravel. Western also asserts that BLM has no jurisdiction to lease these lands. Western's claim of interest and assertions regarding jurisdiction have been fully investigated and found to be without merit.

In its June 7, 2006, letter, the ACE notified BLM that the proposed lease "does not appear to interfere with the immediate needs of the Department of the Army and purposes for which the property has been withdrawn under the Caminetti Act". As a result, the ACE concurred with the BLM's issuance of a lease, so long as BLM incorporates certain terms and conditions to ensure the lease does not interfere with the Secretary of Army's use of the withdrawn lands pursuant to the Caminetti Act.

In response to the JATC lease application, Western has initiated land exchange negotiations with the BLM to resolve titles disputes in the Goldfields. It is BLM's position that these land exchange negotiations could proceed whether or not BLM issues a lease of the subject lands to the JATC.

8. NOTICE OF APPEAL

A notice of appeal must be filed with the BLM's Folsom Field Office, 63 Natoma Street, Folsom, California, 95630 within 30 days from the date of this decision. A copy of the notice must also be filed with the Office of the Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825.

An appellant has the option of filing the statement of reasons together with the notice of appeal or filing a separate statement of reasons for appealing within 30 days as described further below.

The appellant has the burden of showing that the Federal decision is in error.

9. PETITION FOR A STAY

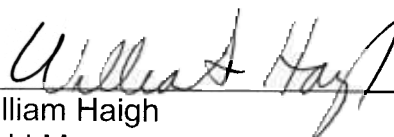
If any appellant wishes to file a petition for a stay (suspension) of the effectiveness of this decision during the time the appeal is being reviewed by the Board pursuant to Part 4, Subpart B, § 4.2 of Title 43, Code of Federal Regulations, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to the Interior Board of Land Appeals, Office of the Secretary, 4015 Wilson Boulevard, Arlington, Virginia 22203 and the Office of the Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825 at the same time the original documents are filed with the BLM's Folsom Field Office cited above.

If the appellant requests a stay, he or she has the burden of proof to demonstrate that a stay should be granted. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: 1). The relative harm to the parties if the stay is granted or denied; 2). The likelihood of the appellant's case succeeding on the merits; 3). The likelihood of immediate and irreparable harm if the stay is not granted; and 4). Whether the public interest favors granting the stay.

10. STATEMENT OF REASONS

If an appellant chooses not to provide his or her reasons for appealing at the time the notice of appeal is filed as explained above, a statement of reasons must be filed with the Interior Board of Land Appeals within 30 days after filing the notice of appeal. A copy of the statement of reasons must also be filed with the Office of the Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825. If the appellant fully stated his or her reasons for appealing when filing the notice of appeal, no additional statement is necessary.

APPROVED BY:



William Haigh
Field Manager
USDI Bureau of Land Management
Folsom Field Office
63 Natoma Street
Folsom, CA 95630

8-31-06
Date

Attachment: Exhibit A. Special Stipulations for Lease CACA 46909

EXHIBIT A
Special Stipulations for Lease CACA 46909
for the Joint Apprenticeship Training Committee's
Heavy Equipment Operators Training Facility
in the Yuba Goldfields

1. The lease area is within lands withdrawn in 1899 from sale and entry under the Caminetti Act of 1893 for the purposes of managing and preventing hydraulic gold mine tailings from entering California waterways. Under the Caminetti Act, the Army Corps of Engineers (ACE) has the right to use these public lands or "any rock, stone, timber, trees, brush, or material thereon or therein" for any of the purposes of that Act. In order to protect ACE's right to use these lands for the purposes of the Caminetti Act, any structures or improvements placed thereon and found to later interfere with the ACE's operations shall be removed or relocated as necessary by the lessee at no cost to the United States. Additional terms and conditions developed by the ACE are as follows:
 - a. Use of the land shall not interfere with the purposes for which the property is managed by the Secretary of the Army, as determined by the District Engineer
 - b. Lessee will comply with all applicable Federal, State, County and municipal laws, ordinances and regulations
 - c. The exercise of the privileges granted shall be without cost or expense to the Department of the Army
 - d. The use shall not be exclusive, but shall be subject to the right of the Department of the Army to improve, use or maintain the premises, and is subject to other outgrants of the United States
 - e. The lease may be revoked at will for any purposes the Department of the Army determines is necessary to carry out its responsibilities under the Caminetti Act.
2. The Bureau of Land Management reserves the right to authorize by sale or permit the removal of sand, gravel and other mineral materials from the lease area by aggregate production companies or local government agencies. The BLM retains the right to manage these lands as necessary for the benefit of the general public, as long as management actions do not interfere with the rights granted under this lease.
3. Rock crushing operations will be restricted to lands in Lot 5 of Section 27 northwest of Hammonton Road in the southwest portion of the lease area. The repair shop rock crushing and heavy equipment hours of operation would be limited to 7:30 am to 4:00 pm, Monday through Friday.
4. Before surface disturbance of lands in the lease area occurs, Training Center staff will consult with a cultural resources expert knowledgeable with the potential resources that could be found in the project area. Center staff will receive training on how to identify potential cultural resources so they can monitor training activities and teach the students about cultural resources identification and protection. The Training Center will provide written notification to BLM of completion of training.
5. The Training Center will designate a staff member as Cultural Resources Coordinator (CRC) to coordinate with BLM in the event that cultural resources are encountered. If pre-historic

or historic period cultural resources are found during project construction or Training Center operations, the CRC shall ensure that project-related personnel do not move or alter the materials or their context until after consulting with a cultural resources expert. Prehistoric resources that could be found include: “chert or obsidian flakes, projectile points, and other flaked-stone artifacts; mortars, pestles, and other groundstone tools; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials” (Bowden, 2004). Historic resources that could be found include “stone or adobe foundations or walls; abandoned roads or ditches; structures and remains with square nails, and refuse deposits or bottle dumps, often located in old walls or privies” (Bowden, 2004). The CRC will immediately notify BLM if any previously unidentified cultural resources are found during the construction and operation of the Training Center. If such a discovery is made, the Training Center will do its best to preserve the cultural resource until BLM staff has the opportunity to investigate it and determine whether it is significant or not.

6. Heavy equipment used to remove vegetation that includes noxious weeds will be washed to remove seeds and plant parts prior to working in an area that is free of noxious weeds.
7. Training Center staff will consult with a biologist knowledgeable with the potential sensitive wildlife that could inhabit the project area, such as pond turtles, California red legged frogs, loggerhead shrike, raptors, and other migratory birds. Center staff will receive training on how to identify the sensitive wildlife so they can monitor Training Center activities and teach the students how to identify and avoid harming the sensitive wildlife. A qualified biologist or other trained individual shall conduct annual surveys of trees in the lease area that have potential to support raptor nests during the early part of the breeding season (January through April). An annual report of training received and surveys conducted will be submitted to BLM. If any raptor nesting activity is discovered, the biologist/trained individual shall contact the California Department of Fish and Game and the Bureau of Land Management to determine the extent of a construction-free buffer zone (typically 250 feet) to be established around the nest. No disturbance that could cause nest abandonment will be allowed within that buffer zone until the biologist has determined that all breeding activity has concluded for the season and all young (if any) have fledged. For nesting migratory birds, such as the killdeer, periodic inspections of the work area shall be conducted during the nesting season by trained staff to determine if any active nests are present. No disturbance to any active nests found is allowed.
8. Seasonal wetlands southeast of Hammonton Road (within Lease Area 1) shall be monitored during the construction of the Training Center facilities by a contract biological monitor to ensure that all seasonal wetlands avoided by the project will be protected from inadvertent disturbance.
9. Prior to the start of construction work in Lease Area 1 and earth-moving activities in Lease Area 3, a Stormwater Pollution Prevention Plan (SWPPP) will be submitted for BLM approval. At a minimum, the plan will include:
 - a. An Erosion Control Plan
 - b. A proposed schedule of grading activities
 - c. Identification of any critical areas with high potential for erosion and/or unstable slopes
 - d. Contour and spot elevations indicating runoff patterns before and after grading

- e. Identification of erosion control measures
 - f. Soil stabilization techniques such as short-term biodegradable erosion control blankets and hydroseeding
 - g. Post excavation inspection and cleaning of drainage facilities for accumulated sediment
10. Unpaved parking areas and roads will be graded such that runoff will drain to one or more vegetated swales prior to release to windrow ponds and canals. Vegetated swales treat runoff through filtering by the vegetation and through chemical or biological mechanisms provided by the vegetation and the soil. Design guidelines for vegetated swales are available in the California Stormwater BMP Handbook – New Development and Redevelopment (CASQA, 2003).
 11. The shop and wash buildings will be set on concrete slabs that are graded to avoid runoff from surrounding areas and will drain to an on-site holding tank where water will be treated and recycled according to State and local laws and regulations.
 12. An approved BLM right-of-way is required if PG&E installs an electric power line across the lease area to service training center facilities. Installation of a power line by the lessee will be authorized by the lease and will not require a right-of-way.
 13. The development and implementation of a Spill Prevention Control and Countermeasures Plan will be developed and submitted for BLM approval. This plan will be implemented to minimize and manage spills of hazardous materials.
 14. If excavation activities authorized under Sec. 1.(b)(3) of the lease will result in the excavation of 1,000 or more cubic yards of material from cumulative on-going activities, a reclamation plan approval under the California Surface Mining and Reclamation Act (SMARA) will be required. The Training Center will comply with this requirement unless a waiver is granted by the SMARA lead agency.
 15. No excavation of materials is allowed beneath the local water table. No disturbance of windrow canal bottom sediments is allowed where water is pumped for use by Training Center operations.
 16. No disturbance of riparian vegetation is allowed without BLM review and approval of the activity proposed.
 17. No surface disturbance is allowed within the drip-line of trees with diameters exceeding four inches without BLM review and approval. No removal of trees with diameters exceeding 4 inches is allowed without BLM approval.
 18. Surface slopes at the margins of water bodies in the lease area will be left at grades no steeper than 3:1 (horizontal to vertical).
 19. Fines (silt and clay material) generated by aggregate screening and crushing will be stockpiled for use as a growing medium upon lease termination and final reclamation of the area.

20. For safety reasons, Lease Areas 1 and 3 will be fenced to prevent access by the general public.
21. Standard fugitive dust emissions controls such as spraying water on roads and other routes of vehicular traffic will be implemented. Training Center operations will include the use of water trucks and will implement BLM approved best management practices for the control of fugitive dust at construction sites.
22. The lessee will abide by liability provisions under 43 CFR 2920.7(f).
23. Upon termination, revocation or cancellation of the lease, the lessee will remove all equipment, structures, trailers, facilities and all personal property from the public lands. Concrete pads for shop and wash buildings will be removed. With the exception of public access roads, all areas disturbed as a result of Training Center operations will be reclaimed to a condition acceptable to the BLM.